

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### 7 CFR Part 3017

RIN 0503-AA12

### Nonprocurement Debarment and Suspension

**AGENCY:** Department of Agriculture (USDA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** USDA proposes to amend its regulations that implement Executive Order (E.O.) 12549, "Debarment and Suspension." E.O. 12549 required executive departments and agencies to issue regulations, consistent with guidelines issued by the Office of Management and Budget (OMB), to establish governmentwide effect for an agency's nonprocurement debarment and suspension actions. These changes are being proposed to enhance USDA participation in the governmentwide nonprocurement debarment and suspension system by making appropriate modifications to the coverage of the regulations and clarifying the relationship of the regulations to other USDA procedures for establishing participant ineligibility for specific programs.

**DATES:** Comments must be received on or before November 27, 1995.

**ADDRESSES:** Comments should be sent to Assistant General Counsel, Research and Operations Division, Office of the General Counsel, U.S. Department of Agriculture, Washington, DC 20250-1400.

**FOR FURTHER INFORMATION CONTACT:** Gary W. Butler, Deputy Assistant General Counsel, Office of the General Counsel, (202) 720-2577.

**SUPPLEMENTARY INFORMATION:** As part of the Federal Government's initiatives to curb fraud, waste, and abuse, E.O. 12549, "Debarment and Suspension," was signed on February 18, 1986. E.O. 12549 required executive departments and agencies to issue regulations to establish governmentwide effect for an agency's nonprocurement debarment

and suspension actions. Section 3 of E.O. 12549 required that such regulations be consistent with guidelines issued by OMB.

On October 20, 1987, 20 executive departments and agencies published a proposed common rule (52 FR 39035-39042) which implemented the final OMB guidelines that had been published on May 29, 1987 (52 FR 20360-20369). USDA did not join the proposed common rule, but rather published a proposed rule that addressed some problems peculiar to USDA while being consistent with the OMB guidelines.

On May 26, 1988, 27 executive departments and agencies published a final common rule (53 FR 19159-19211) and OMB adopted the final common rule as its amended final guidelines. Upon reconsideration of the issue of joining the common rule, USDA published a final rule on January 30, 1989 (54 FR 4729), which followed the text of the final common rule published on May 26, 1988. However, USDA limited the scope of coverage of the rule (7 CFR Part 3017) to domestic assistance transactions and added material generally to reflect internal organization and procedures. Following extended consultations with OMB, USDA has determined that the coverage of this rule should be amended by removing the provision that limits the coverage of the rule to domestic assistance transactions. This change would make the scope of the USDA rule consistent with the scope of the common rule as adopted by most other agencies. However, USDA is proposing additional specific exceptions from coverage of the common rule, as implemented by USDA, that are deemed in the public interest. These exceptions are necessary because, for certain USDA programs, the benefits resulting from full application of the rule would be outweighed by potential programmatic harms that are explained in detail in the section-by-section analysis.

While proposing additional exceptions from coverage, USDA emphasizes that certain programs, including, but not limited to, those related to warehouse licensing; producer entitlements; predator control; grading; inspection; timber export; and public animal, and plant health or safety that would be affected by such exceptions are subject to existing statutes and regulations that provide

exclusionary actions of various kinds that may be imposed by USDA for improper conduct. Accordingly, the fact that a USDA program may be excepted from the application of the nonprocurement debarment and suspension common rule would not preclude USDA from using such other authorities to exclude persons who violate certain statutes or USDA regulations from participation in such excepted programs. For example, this proposal would not in any manner restrict appropriate USDA officials' ability to: (1) Suspend or revoke licenses under the United States Warehouse Act; (2) determine ineligibility for payments under the provisions of section 1001B of the Food Security Act of 1985; (3) withdraw or suspend inspection services for violations of the Federal Meat Inspection Act, the Poultry Products Inspection Act, or the regulations issued under the Federal Meat Inspection Act or the Poultry Products Inspection Act; (4) revoke licenses for violations of the Animal Welfare Act or the regulations issued under the Animal Welfare Act; (5) withdraw or suspend permits for the importation or transportation of organisms or vectors for violation of the Virus-Serum Toxin Act or the regulations issued under the Virus-Serum Toxin Act; (6) revoke or suspend licenses for the treatment of garbage under the Swine Health Protection Act or the regulations issued under the Swine Health Protection Act; (7) deny or withdraw grading and inspection services under the Agricultural Marketing Act of 1946; (8) refuse the payment of indemnity under the Act of May 29, 1884; (9) debar persons who violate the Forest Resources Conservation and Shortage Relief Act of 1990; or (10) impose civil monetary penalties, when authorized, for violations of acts and regulations administered by the Secretary of Agriculture. Moreover, in any case in which an administrative exclusion is considered under one or more of such other provisions, USDA will initiate, where appropriate, debarment or suspension under the common rule for the protection of the entire Government.

During the development of this proposed rule, questions were raised about the treatment under Part 3017 of the transactions with local non-governmental entities (such as nonprofit

child care centers and private schools) in the Child Nutrition Programs of the Food and Consumer Service. In particular, some have questioned the agency's position that these transactions constitute mandatory awards since there are nearly 200 of such entities currently denied participation in the Child Nutrition Programs based on their serious deficiencies in those programs. However, if viewed as mandatory awards, these transactions would be excluded from coverage both for purposes of certification and for eligibility for the awards (7 CFR 3017.110(a)(2)(i) and 3017.200(c)(1)) under Part 3017. It has been suggested that USDA require all non-governmental entities to complete the certification, even though the award itself might not be denied. While this rule does not propose any changes in these areas, the Department welcome comments on these questions. Further, as indicated above, whenever USDA takes an action to exclude a local non-governmental entity from participation in a Child Nutrition Program, USDA will consider initiating, where appropriate, debarment or suspension under the common rule for the protection of the entire Government.

For USDA programs subject to existing statutes and/or regulations permitting certain exclusionary actions, this proposed rule shall not affect actions taken under these statutes or regulations prior to the effective date of this rulemaking. Exclusionary actions taken prior to the effective date of this rulemaking shall be governed by the statutes and regulations then in effect.

#### Section-by-Section Analysis

##### Subpart A

##### Section 3017.110, Coverage

—*USDA proposes to amend § 3017.110, "Coverage," by revising paragraph (a)(3), Department of Agriculture covered transactions*, which currently limits the coverage of the USDA nonprocurement debarment and suspension rule to domestic assistance covered transactions. This limitation would be removed, which would make the scope of the USDA rule consistent with the scope of the common rule as adopted by most other agencies. However, USDA is proposing additional specific exceptions from coverage of the common rule that are deemed in the public interest.

—*With respect to paragraph (a)(1), Covered transaction*, USDA proposes to state in paragraph (a)(3)(i) that, for USDA's export and foreign assistance programs, only primary covered

transactions will be considered covered transactions for the purposes of these regulations. Any lower tier transactions with respect to such programs will not be considered lower tier covered transactions. Export programs in this context do not include transactions for the export or substitution of Federal timber pursuant to the Forest Resources Conservation and Shortage Relief Act of 1990, 16 U.S.C. 620 *et seq.* (the "Export Act"). In fact, the Export Act provides statutory authority for the head of the Forest Service to debar persons who violate the Export Act and/or regulations issued thereunder.

One effect of the proposed amendment will be that, although participants in primary covered transactions under these programs will have to provide the required certifications, there will be no certification requirements applicable to participants in lower tier transactions. This partial limitation from coverage for these programs is necessary because it is expected to be difficult, and in some cases impossible, for participants in primary covered transactions under these programs to obtain the necessary certifications from lower tier participants.

Lower tier participants in USDA's export and foreign assistance programs may include domestic suppliers, foreign or domestic agents, foreign or domestic parties involved in the transportation of the commodity, foreign or domestic subcontracted representatives, and foreign buyers of the commodity. The foreign entities that would be required to provide certifications may be unwilling to make certifications, and any certifications obtained may not be enforceable because these foreign entities will generally not be subject to U.S. laws. The different legal structures for organizations which may exist in foreign countries further complicate matters. For example, it may be difficult for a non-governmental foreign entity to identify its "principals" for purposes of providing the necessary certification. To impose an additional administrative burden upon foreign buyers would only encourage them to purchase from our competitors, thereby defeating the purpose of many of the USDA export programs.

The fungible nature of most of the commodities involved in the export and foreign assistance programs creates additional problems. Without the proposed amendment, participants in primary covered transactions under these programs (primarily exporters) would be required to obtain

certifications from each supplier providing at least \$100,00 worth of the commodities, services, or goods in connection with a covered transaction. (We note that 7 CFR Part 3017 applies to lower tier procurement contracts that equal or exceed the Federal procurement small purchase threshold. See 7 CFR § 3017.110(a)(1)(ii)(B). Pursuant to the providings of sections 4001 and 4003 of the Federal Acquisition Streamlining Act of 1994, this threshold and thus the level of expected lower tier procurement contracts has increased to \$100,000.) This requirement would continue down the supply chain, with all such suppliers obtaining certifications from their suppliers, until a transaction amounting to less than \$100,000 was reached. (However, it would be necessary to obtain a certification from a person participating in a transaction amounting to less than \$100,000 under a covered transaction if that person will have a critical influence on or substantive control over that covered transaction. The \$100,000 figure is used in this section-by-section analysis to simplify the discussion.) Downstream suppliers would, in some cases, be unable to provide the required certifications with respect to lower tier transactions. Suppliers generally obtain commodities from a variety of sources and store them commingled until they are sold. In some cases, it would be impossible for a supplier to determine the source of a particular quantity of a commodity in order to obtain the necessary certification from such source.

—*With respect to paragraph (a)(1)(ii)(B), USDA proposes in paragraph (a)(3)(ii) to limit coverage of lower tier procurement contracts in the domestic food assistance programs to the initial procurement contracts and the first tier of subcontracts under those procurement contracts.*

The current rule includes lower tier procurement contracts within the scope of coverage of this part. USDA recognizes the importance of maintaining lower tier coverage of the initial procurement contract and the first tier subcontract thereunder in order to protect the integrity of its domestic food assistance programs. However, extending lower tier coverage beyond these levels is unworkable because suppliers in these programs may provide food to a variety of outlets, obtain food from many different sources, and commingle the food before selling it to the outlets.

For example, in a domestic food assistance program such as the National

School Lunch Program, many school districts contract with food service management companies to provide school lunches. To ensure compliance with the requirements of the common rule for all lower tier covered transactions, not only would the food service management company have to provide a certification and agree not to knowingly contract with debarred or suspended companies, but certifications would also have to be obtained from the bakery which supplies the break to the food service management company, the food wholesaler which supplies the flour to the bakery, the flour mill which sells the flour to the wholesaler, the merchants who supply the wheat to the flour mill, and even the farmers (of which there will be many) who sell the wheat to the merchants. Given that at each level these products are typically commingled, it would be impossible to determine the precise outlet for each item for each of these lower tier transactions. Thus, each entity would need to obtain certifications from all of its suppliers to ensure compliance with the common rule. This certification requirement would continue down the chain of contracts until the \$100,000 limit is reached. Such a requirement would be an onerous and unreasonable burden on commerce.

—*With respect to paragraph (a)(2)*, USDA proposes in paragraph (a)(3)(iii) to provide an exception from the coverage of this part for transactions under programs that provide statutory entitlements and make available loans to individuals and entities in their capacity as agricultural producers. This exception would not apply to transactions under programs that provide loans or other assistance to recipients for business or industrial purposes. The proposed exception is necessary in order to avoid the imposition of unnecessary and unduly burdensome certification requirements upon participants in these programs and to relieve them of the burden of trying to determine when a certification would even be required.

In addition, with respect to entitlement and farm lending programs, these producers would have to obtain certifications from all persons or entities with whom they do business involving at least \$100,000. This requirement would increase regulatory burdens on producers and put the Consolidated Farm Service Agency (CFSA) in the position of partially regulating all of the producers' business transactions from purchasing inputs to selling commodities.

For a typical farming operation, lower tier transactions could easily include payments to landlords or mortgage companies, seed dealers, fertilizer dealers, herbicide/insecticide suppliers, equipment dealers (implement purchases or equipment leasing arrangements), petroleum suppliers (gasoline and diesel fuel), irrigation input suppliers (including well digging and electricity), custom services (custom farming, heavy equipment work, custom fertilizer or herbicide application, and custom harvesting), and commodity sales/marketing services. Most individual producers will not have the economic clout to require suppliers to provide these certifications. Even if they were able to obtain such certifications, given the number of suppliers that could be involved, it would be a substantial administrative burden on producers to collect these certifications.

Furthermore, producers would be required to agree not to knowingly do business with a debarred party. Yet, a producer may have little choice in a situation where a major input supplier, such as a seed company or cooperative, becomes debarred, the debarment is widely publicized, and it is the only supplier through which the producer is able to obtain required inputs.

—*Also under paragraph (a)(2)*, USDA proposes in paragraph (a)(3)(iii) to provide an exception from the coverage of this part for transactions under conservation programs.

This proposed exception is necessary to avoid the same type of lower tier certification problems which were discussed with respect to farm entitlement and farm lending programs. In addition, because many of USDA's conservation programs, such as the Agricultural Conservation Program, have relatively low dollar limits for payment, it is quite possible that the certification requirements would remove any incentive producers would have to participate in these programs. This result would be contrary to the objective of promoting the stewardship of land through conservative incentives designed to encourage pollution abatement and land conservation practices, thus providing a benefit to the general public rather than to the individual participants only.

—*Also under paragraph (a)(2)*, USDA proposes in paragraph (a)(3)(iii) to provide an exception from the coverage of this part for transactions under warehouse licensing programs.

In the absence of this proposed exception, the burden imposed upon participants in the warehouse licensing

programs would be substantial. It would be impossible for warehousemen to obtain lower tier certifications with respect to most of their commodity transactions because commodities like fertilizer, wheat, and feed grains are generally stored and merchandized from a commingled, fungible mass. In addition, the warehouseman is required to store commodities on a non-discriminatory basis and performs a public service by assuring that a farmer has a facility, which is bonded and meets federal licensing requirements, available to store and market commodities.

—*Also under paragraph (a)(2)*, USDA proposes in paragraph (a)(3)(iii) to provide exceptions from the coverage of this part for the receipt of licenses, permits, certificates, and indemnification under regulatory programs in the interest of public health and safety, and animal and plant health and safety. In addition, this paragraph would provide exceptions for the provision by State or local governments of official grading and inspection services, animal damage control services, and public health and safety and animal and plant health and safety inspection services, and the receipt of official grading and inspection services, animal damage control services, and public health and safety and animal and plant health and safety inspection services.

USDA conducts a number of programs and provides certain services that are designed to protect public health and safety, protect animal and plant health and safety, control predators, and provide markets for agricultural products that are fair and free of deceptive trade practices. In many instances, USDA's inability to conduct these programs with and provide these services to persons who have been debarred would undermine USDA's ability to protect public health and safety, protect animal and plant health and safety, control predators, and provide markets for agricultural products that are fair and free of deceptive trade practices. This inability to engage in nonprocurement transactions with debarred persons may injure not only the debarred person, but may also injure persons who are not debarred.

The following are examples of injuries to public health and safety, animal and plant health and safety, predator control, and fair and free markets that may result because of USDA's inability to engage in nonprocurement transactions with debarred persons.

USDA conducts an animal damage control program under which persons who have suffered losses from predators may receive assistance from USDA with the control of the predators on that person's property. USDA's inability to provide predator control assistance to debarred persons would not only injure the debarred individual, but would also injure all persons who are within the range of the predators on the debarred person's premises.

USDA conducts numerous programs designed to prevent the spread of plant and animal diseases and pests. In many circumstances, USDA has no authority to require individuals to destroy animals or plants that are infected with or exposed to disease. USDA does have authority under certain circumstances to pay indemnity to producers who voluntarily destroy plants or animals that are infected with or exposed to disease. USDA's inability to pay indemnity to debarred producers who voluntarily destroy animals or plants infected with or exposed to disease may result in the continued existence of foci of infection and the spread of animal and plant diseases to animals and plants owned by persons who have not been debarred.

USDA issues licenses and permits for animal biologics, such as vaccines or diagnostics. In order to ship animal biologics, persons must first obtain either a license or a permit from USDA. USDA's inability to grant licenses or permits to debarred persons could result in the unavailability of products necessary for the protection of animal and public health.

USDA grades products in order to correct market inefficiencies arising from the lack of information about quality or performance of agricultural products. USDA's grading programs benefit producers of quality products by increasing consumer acceptance of agricultural products and increasing the likelihood that the producer will receive more for graded quality products than for similar ungraded products. Grading benefits consumers by providing consumers with information regarding the quality and performance of the graded products. USDA's inability to provide grading services to debarred producers could result in the inability to sell ungraded products, a reduction of graded products in the market place, and a reduction in the information consumers have available regarding the quality and performance of agricultural products.

—Also under paragraph (a)(2), USDA proposes in paragraph (a)(3)(iii) to provide an exception from the

coverage of this part for permits, licenses, exchanges, and other acquisitions of real property, rights of way, and easements under natural resource management programs. This paragraph would except such transactions from coverage because the value derived from the application of the rule which precludes doing business with debarred and suspended persons is outweighed by the fact that, in many such transactions, fair market value is exchanged and, in many others, royalty systems operate to return significant reserves or cash to the United States from fees collected for the use of these lands, uses which have been determined to be in the best interest of sound land and resource management.

Further, the benefits of applying this rule are significantly outweighed by the inability to efficiently manage and administer the rule, as hundreds of thousands of permits are issued under natural resource programs annually for which nominal benefits are received by permittees.

#### Section 3017.115, Policy

—USDA proposes to amend § 3017.115, "Policy," by adding a new paragraph (d) to provide that, in any case in which an administrative exclusion is considered under an authority other than this rule, USDA will initiate, where appropriate, a debarment or suspension action under this rule for the protection of the entire Federal Government.

#### Subpart B

#### Section 3017.200, Debarment or Suspension

—USDA proposes to amend § 3017.200(c) to reflect the exceptions to coverage to be inserted in § 3017.110(a)(3).

#### Impact Analysis

#### Executive Order 12866

This proposed rule has been determined to be "significant," and it has been reviewed by the Office of Management and Budget.

#### Regulatory Flexibility Act of 1980

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires that, for each rule with a "significant economic impact on a substantial number of small entities," an analysis must be prepared describing the rule's impact on small entities and identifying any significant alternatives to the rule that would

minimize the economic impact on the small entities.

USDA certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities.

#### Paperwork Reduction Act

USDA certifies that this proposed rule would not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35.

#### List of Subjects in 7 CFR Part 3017

Administrative practice and procedure, Drug abuse, Grant administration, Grant programs (Agriculture), Loan programs, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, USDA proposes to amend 7 CFR Part 3017 as follows:

### **PART 3017—GOVERNMENTWIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) AND GOVERNMENTWIDE REQUIREMENTS FOR DRUG-FREE WORKPLACE (GRANTS)**

1. The authority citation for Part 3017 would be revised to read as follows:

Authority: 5 U.S.C. 301; 41 U.S.C. 701 *et seq.*; E.O. 12549, 51 FR 6370, 3 CFR, 1986 Comp., p. 189.

2. Section 3017.110 would be amended by revising paragraph (a)(3) to read as follows:

#### **§ 3017.110 Coverage.**

(a) \* \* \*

(3) *Department of Agriculture covered transactions.* (i) With respect to paragraph (a)(1) of this section, for USDA's export and foreign assistance programs, covered transactions will include only primary covered transactions. Any lower tier transactions with respect to USDA's export and foreign assistance programs will not be considered lower tier covered transactions for the purposes of this part. The export or substitution of Federal timber governed by the Forest Resources Conservation and Shortage Relief Act of 1990, 16 U.S.C. 620 *et seq.* (the "Export Act"), is specifically excluded from the coverage of this rule. The Export Act provides separate statutory authority to debar persons engaged in both primary covered transactions and lower tier transactions.

(ii) With respect to paragraph (a)(1)(ii)(B) of this section, for USDA's domestic food assistance programs, only the initial such procurement contract and the first tier subcontract under that procurement contract shall be

considered lower tier covered transactions.

(iii) With respect to paragraph (a)(2) of this section, the following USDA transactions also are not covered: transactions under programs which provide statutory entitlements and make available loans to individuals and entities in their capacity as producers of agricultural commodities; transactions under conservation programs; transactions under warehouse licensing programs; the receipt of licenses, permits, certificates, and indemnification under regulatory programs conducted in the interest of public health and safety and animal and plant health and safety; the receipt of official grading and inspection services, animal damage control services, public health and safety inspection services, and animal and plant health and safety inspection services; if the person is a State or local government, the provision of official grading and inspection services, animal damage control services, public health and safety inspection services, and animal and plant health and safety inspection services; and permits, licenses, exchanges and other acquisitions of real property, rights of way, and easements under natural resource management programs.

\* \* \* \* \*

3. Section 3017.115 would be amended by adding a new paragraph (d) to read as follows:

**§ 3017.115 Policy.**

\* \* \* \* \*

(d) In any case in which an administrative exclusion is considered under an authority other than this part, USDA will initiate, where appropriate, a debarment or suspension action under this part for the protection of the entire Federal Government.

4. Section 3017.200 would be amended by adding a new paragraph (d) to read as follows:

**§ 3017.200 Debarment or suspension.**

\* \* \* \* \*

(d) *Department of Agriculture excepted transactions.* With respect to paragraph (c) of this section, the following USDA transactions also are excepted: transactions under programs which provide statutory entitlements and make available loans to individuals and entities in their capacity as producers of agricultural commodities; transactions under conservation programs; transactions under warehouse licensing programs; the receipt of licenses, permits, certificates, and indemnification under regulatory programs conducted in the interest of

public health and safety and animal and plant health and safety; the receipt of official grading and inspection services, animal damage control services, public health and safety inspection services, and animal and plant health and safety inspection services; if the person is a State or local government, the provision of official grading and inspection services, animal damage control services, public health and safety inspection services, and animal and plant health and safety inspection services; and permits, licenses, exchanges, and other acquisitions of real property, rights of way, and easements under natural resource management programs.

Dated: September 15, 1995.

Dan Glickman,

*Secretary of Agriculture.*

[FR Doc. 95-23508 Filed 9-25-95; 8:45 am]

BILLING CODE 3410-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 95-NM-91-AD]

#### **Airworthiness Directives; McDonnell Douglas Model DC-9-80 Series Airplanes and Model MD-88 Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC-9-80 series airplanes and Model MD-88 airplanes. This proposal would require installation of hydraulic line restrictors in the main landing gear (MLG), and modification of the hydraulic damper assembly of the MLG. This proposal is prompted by reports of vibration occurring in the MLG during landing; in some cases, such vibration has led to the collapse of the MLG. The actions specified by the proposed AD are intended to prevent incidents of vibration in the MLG, which can adversely affect the integrity of the MLG.

**DATES:** Comments must be received by November 21, 1995.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-91-AD, 1601 Lind Avenue, SW.,

Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1-L51 (2-60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Walter Eierman, Aerospace Engineer, Systems and Equipment Branch, ANM-130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627-5336; fax (310) 627-5210.

#### **SUPPLEMENTARY INFORMATION:**

##### **Comments Invited**

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95-NM-91-AD." The postcard will be date stamped and returned to the commenter.

##### **Availability of NPRMs**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No.